

ment of three notes of \$333 33, each dated 8th of August, 1850, payable six, eight, and ten months after date, and the mortgage and the notes bear the same date.

On the 15th of July, 1851, the defendant filed his petition in the cause, in which he alleges that the amount secured by the mortgage had been materially reduced by various dealings and pecuniary transactions between the parties, and he exhibited an account, by which it appeared that the balance due from him very little exceeded one-third of the mortgage claim. This account places upon the credit side the three notes secured by the mortgage; and all the charges on the other side, but three of inconsiderable amount, bear date anterior to the mortgage.

Upon the filing of this petition, however, in which it is alleged that a large portion of the sum included in the mortgage, and for which the property was about to be sold, had been paid, or was not due, the petition being sustained by the affidavit of the petitioner, and an offer made to pay the sum really and in fact due, in order to prevent a sale of the mortgaged premises, I deemed it proper to suspend the sale until the other side could be heard from, and passed an order to that effect. The complainant has since answered the petition, and proof has been taken on both sides, and the question argued on one side in writing, and on the other orally.

From the answer and the evidence, I can see no reason to doubt that the sum expressed in the mortgage is *bona fide* due, and I do not, therefore, feel myself at liberty to send the case to the Auditor for an account. The Act of the Legislature, under which the mortgage in question was taken, was passed for the purpose "of facilitating the enforcement of mortgages of real property and estate in the city of Baltimore." It declares, after saying that such is its object, "that in all cases of conveyances, by way of mortgage, of lands, &c., situate in the city of Baltimore, and where in the said conveyances the mortgagor shall declare his assent to the passing of a decree, as hereinafter mentioned, it shall and may be lawful for the mortgagees or their assigns, at any time after the